HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO.4867 OF 2004

PETITIONERS

1. Vishwanath Prasad,
   Aged about 50 years
   S/o Mangru Sao,
   By Occupation Agriculturist
2. Govind Aged about 39 years,
   S/o Mangru,
   By Occupation Agriculturist

   Both R/o Village Gujarvar Tahsil Lundru (Dhurpur) Distt. Sarguja

Versus

RESPONDENTS

1. Lodhuram Aged about 55 years
   S/o Karlu Kishan
2. Lepsu Aged about 24 years
   S/o Lodhuram
3. Gudumram Aged about 50 years
   S/o Samaram Kishan
4. Tangalram Aged about 22 years
   S/o Gudumram Kishan
5. Balsaya Aged about 25 years
   S/o Ramsaya

   All R/o Village Gujarwar Tahsil Lundru (Dhurpur), Distt. Sarguja
6. The State of Chhattisgarh,
   Through Collector Sarguja

Present: Mr. Parag Kotecha, learned counsel for the petitioners.
Mr. Arun Shukla, learned counsel for respondents 1 to 5.

ORAL ORDER
(Passed on 23rd February, 2006)

This petition arises out of an order made by the learned trial Judge on an application filed under Order 14 Rule 5 of CPC for framing additional issues. The petitioner is the plaintiff. On an earlier occasion,

the petitioner complaining that the defendants highhandedly dispossessed the plaintiff from the suit schedule property, had filed an application under Order 6 Rule 17 of CPC for amendment of the plaint and for recovery of the possession of the suit scheduled property and that application was allowed by the learned trial Judge. Thereafterwards, the petitioner-plaintiff moved an application under Order 14 Rule 5 of CPC for framing of additional issues relating to entitlement of the plaintiff to recover possession of the suit schedule property and for mesne profits and that application has been rejected by the order impugned in this writ petition, filed under Article 227 of the Constitution. The learned trial Judge has committed an error apparent on the face of the record. The learned trial Judge having allowed the application of the petitioner-plaintiff filed under Order 6 Rule 17 of CPC, ought to have seen that the issues sought to be added as additional issues are relevant issues to be tried in order to decide the suit finally and effectively. In that view of the matter, I allow the writ petition, set aside the order of the learned trial Judge and allow the application filed by the petitioner-plaintiff under Order 14 Rule 5 of CPC as prayed for. No costs.

Sd/-
Chief Justice

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